IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 16.03.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K.SAMPATHKUMAR

Writ Appeal No.845 of 2000

M/s Hindustan Photo Films
Manufacturing Company Ltd.,
Indunagar, Ootacamund,
rep. by Dr.Shankaranarayanan
Regional Manager. ... Petitioner/Appellant

Vs.

1.The Deputy Chief Inspector
of Factories,
Coimbatore-12.

2.N.Balakrishnan

3.J.Chandrakumar

4.M.Jesudoss

5.Christopher Jesudoss

6.A.Sakthivelu

7.M.Julius

8.L.Krishnan

9.U.Krishnamurthy

10.N.Sridharan

11.S.Nagaraj

12.L.Rajasekaran

13.L.Parasuraman

14.K.Selvaraj

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15.R.Arasu

16.P.Welfbret Prabakar

17.Krishnagiri

18.S.Murthy

19.Mubarak

20.C.Ramesh

21.N.Govindan

22.Muthusamy

23.E.Manoharan

24.K.Chandravelu

25.K.Jayaraman

26.A.L.Anwar

27.M.P.Rajesh

28.Jothilingam

29.A.Pushparaj

30.N.Rajagopal

31.Tominicseveyar

32.Abdulkalam
33.P.Krishnamurthy

34.P.Mohan

35.N.Nagaraj

36.A.Sabashtin

37.K.Vincent

38.M.S.Vincent

39.G.Vincent

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40.Y.Jayakumar

41.G.Narayanan

42.Peter Francis

43.G.N.Guroose

44.S.Narayanan

45.Ilangovan

46.Silvastar

47.Royappan

48.David

49.S.Raghu

50.S.T.Govindarajan

51.K.Subramani

52.Chandra

53.S.Kalyanasundaram

54.K.S.Bojan
55.M.Manimurali

56.M.Asnar

57.S.Selvaraj

58.T.Sankar

59.E.Chandran

60.S.Mohanraj

61.M.P.Sivakumar

62.A.H.Sobanbabu

63.V.Ramesh

64.Kaliappan

(R2 to R64 are rep. by B.Rajagopal

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Advocate/District General Secretary
Bharathia Masthur Sangam,
231, Sakthi Road,
Ganapathy,
Coimbatore-641 006. ... Respondents/Respondents

Writ appeal filed under Clause 15 of the Letters patent against the order dated 30.09.1999 made in W.P.No.16144 of 1999 to issue a writ of certiorari calling for the records in complaint No.6793/98 of the order passed therein dated 24.3.99 on the file of the first respondent and quash the same.

For Appellant : Mr.Vijayan for
M/s King and partridge

For 1st Respondent : Mr.R.Vijayakumar
Government Advocate

For respondents 2 to 16: Mr.S.K.Rakhunathan
18 to 38, 40, 41, 43 to 64.

JUDGMENT

(Order of the Court was made by P.SATHASIVAM, J.)

M/s Hindustan Photo Films Manufacturing Company Ltd., aggrieved by the order of the learned single Judge dated 30.09.1999 made in W.P.No.16144 of 1999, in and by which the learned single Judge confirmed the order of the Deputy Chief Inspector of Factories, Coimbatore-12, has filed the above writ appeal.

2. It is seen that respondents 2 to 64 have filed an application before the first respondent, Deputy Chief Inspector of Factories, Coimbatore-12 under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 for an appropriate direction to confer permanent status on them. It is not in dispute that the said authority, after hearing both parties, including the management, accepted the claim of the workmen and ordered the application. Questioning the same, the management has filed W.P.No.16144 of 1999 before this Court. The learned single Judge, on going through the factual finding of the authority and taking note of the fact that all the workmen are entitled for regularisation, dismissed the writ petition at the admission stage. Aggrieved by the same, the present writ appeal has been filed.

3. Heard the learned counsel appearing for the appellant as well as respondents 2 to 64.

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4. The only point for consideration in this appeal is whether there is any ground for interference as against the order of the authority, which was confirmed by the learned single Judge.

5. It is seen that the authority, in his order, which is available at page 18 to 27 of the typed set of papers, after noting the date of initial entry into the service and the number of days worked based on the relevant documents, arrived at a conclusion that all the 62 workmen are to be regularised/made permanent. As stated earlier, the said order came to be passed after hearing both parties and on the basis of the records produced. The said factual finding was considered by the learned single Judge. The order of the learned single judge also shows that the learned Judge was aware of the stand taken by the management which sustained loss due to various other reasons and held that merely on that score, viz., that the management is incurring loss, it cannot be held that the order passed by the competent authority is illegal and could be voided. The conclusion of the learned single Judge also shows that it is not as if the services of the 63 workers are no longer required to the management. The order further shows that all 63 workmen had been in continuous employment since 1991 and their services are still required.

6. Even before us, the learned counsel for the appellant, by drawing our attention to the order of the Division Bench dated 2.9.2003 made in W.A.Nos.1117 to 1132 of 1998, submitted that the management has no objection to pass a similar order as made therein. However, the learned counsel appearing for the respondent-workmen has brought to our notice that the workmen in that case were trainees and ousted from service at the instance of the management. In such circumstances, the direction issued in respect of those persons cannot be applied to the respondents herein, who worked continuously for several years and after proper enquiry, their services were recognised by the competent authority and orders issued. In the light of the distinction and in view of the categorical finding by the authority, which was upheld by the learned single Judge, we are unable to accept the only argument advanced by the learned counsel for the appellant.

7. On the other hand, we are in agreement with the conclusion arrived at by the learned Judge and we do not find any valid ground for interference. Consequently, the writ appeal fails and the same is dismissed. No costs.

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Asst. Registrar.

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Sub Asst. Registrar.

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To

The Deputy Chief Inspector
of Factories,
Coimbatore-12.

1 cc to M/s. King and Partridge, Advocates, Sr. 12922
1 cc to Mr.S.K.Rakhunathan, Advocate, Sr. 12968

W.A.No.845 of 2000

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